

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CIVIL ACTION NO. 3:11-CV-0131-RJC-DCK**

**TORNELLO FONTAINE PIERCE EL-BEY,** )

**Plaintiff,** )

**v.** )

**CITY OF CHARLOTTE,** )

**CHARLOTTE-MECKLENBURG POLICE** )

**DEPARTMENT, T. BOBREK,** )

**and JOHN DOE,** )

**Defendants.** )

**ORDER**

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**THIS MATTER IS BEFORE THE COURT** on Plaintiff's "Motion To Compel..." (Document No. 10). This matter has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. §636(b), and immediate review is appropriate. Having carefully considered the motion, the record, and the applicable authority, the undersigned will deny the motion.

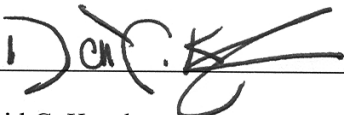
On May 3, 2011, the now pending "Motion To Compel And Dismiss Defendant Motion Supported With Affidavit" (Document Nos. 10-11) was filed by Plaintiff. Plaintiff's filing was docketed by the Court as both a motion to compel (Document No. 10) and a response to the motion to dismiss (Document No. 11). "Defendant's Notice Of Intent Not To File A Response Brief" (Document No. 16) to the pending "Motion To Compel..." (Document No. 10) was filed May 19, 2011. Defendants contend that the Plaintiff's "Motion To Compel..." is moot based on the undersigned's recent "Memorandum And Recommendation" (Document No. 15) which recommends that "Defendants' Motion To Dismiss" (Document No. 9) be granted.

It is the undersigned's view that the pending "Motion To Compel..." fails to clearly or persuasively describe the relief it seeks. (Document No. 10). As such, that document is more

logically construed only as a response to “Defendants’ Motion To Dismiss.” Under the circumstances, the Court finds that it is in the best interests of judicial economy and case management to deny Plaintiff’s “Motion To Compel...” without prejudice to re-file, following the presiding district judge’s ruling on the “Memorandum And Recommendation” (Document No. 15).

**IT IS, THEREFORE, ORDERED** that Plaintiff’s “Motion To Compel...” (Document No. 10) is **DENIED WITHOUT PREJUDICE**, as described herein.

Signed: May 19, 2011

  
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David C. Keesler  
United States Magistrate Judge

